



# University of Hawaii at Manoa

**Environmental Center**  
Crawford 317 • 2550 Campus Road  
Honolulu, Hawaii 96822  
Telephone (808) 948-7361

Office of the Director

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## SB 1494 RELATING TO CONSERVATION LAND

Statement for  
Senate Committee on Economic Development  
Public Hearing, 27 February 1979

By  
Doak C. Cox, Environmental Center  
Kem Lowry, Pacific Urban Studies & Planning

SB 1494 would amend certain sections of HRS Chapter 205 so as to discourage the reclassification of land now in the Conservation District and encourage the reclassification of land now in the Urban District. This statement on the bill does not reflect an institutional position of the University.

The first of the proposed amendments relates to HRS 205-4(e), which deals with the intervention of agencies and persons in the proceedings for amendments to district boundaries. A new subsection would be added requiring the intervention of the Department of Land and Natural Resources and the County Board of Water Supply. These agencies would be required to include assessments of the effects of a proposed boundary change on endemic flora and fauna, on buffer zone needs, on needs for integrity of the Conservation District, and on watershed areas and water quantities. The intent is good. Considerable expense would be involved in making the assessments in detail, but assessments adequate for wise land reclassification decisions would not be difficult to produce. Additional assessments that should be considered relate to effects on sedimentation and effects on increased flood discharge. The effect of the proposed assessments could be produced alternatively by including conservation district boundary changes as actions subject to environmental assessment under the State Environmental Impact Statement Act.

The second amendment relates to HRS 205-16.1, which deals with the adoption of interim land-use guidance policy. The reclassification of urban lands would remain as an encouraged policy in subsection (8) to be renumbered (7), but the policy of not reclassifying conservation lands (present subsection (6)) would be deleted from that section and expanded in a new section 205-16.3 requiring demonstration of a compelling public policy as a condition to such reclassification. The intent of this provision also is good. If what is a "compelling public policy" could be spelled out, this would be important.

Although the intent of the bill is good, its language should be improved. For example:

- 1) The expressed intent of bringing "the petition for reclassification of conservation lands within the parameters set by the goals" etc., (p. 2, ls. 9-11) presumably means approving only those proposed reclassifications of conservation land that are in accord with the goals..." etc.
- 2) "Reclassification of a conservation district boundary" (p. 2, l. 16) really means reclassification of conservation land.
- 3) "Any other provisions of law to the contrary notwithstanding" (p. 3, ls. 7-8; p. 7, l. 23 to p. 8, l. 1) is an unfortunate phrase. What if two or more provisions in the law containing this phrase apply. Which gives way to the other?
- 4) "The need of the conservation to remain as an integral unit" (p. 5, ls. 15-16) presumably means the need of the conservation district to remain as an integral unit, or simply the need to retain contiguity of conservation lands.
- 5) "A compelling public purpose" (p. 8, ls. 4-5) should if possible be defined. It should be noted that the demonstration of such a compelling purpose would be required to change the boundary of the Conservation District in either direction, although the intent of the bill is clearly to make it more difficult to classify only those lands that are now in the conservation district, and to make it easier to reclassify for conservation lands those that are not now included in this district.